

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Joseph D. Jones, #250415,

Petitioner,

vs.

State of South Carolina; Henry
McMaster; Tim Riley, Warden, at
Tyger River Correctional Institution,

Respondents.

Civil Action No.: 8:08-1958-RBH-BHH

**REPORT AND RECOMMENDATION
OF MAGISTRATE JUDGE**

This matter is before the Court on the petitioner's motion for default judgment against the respondents. [Doc. 16]. Pursuant to an Order dated July 2, 2008, the respondents were to file a response by July 25, 2008. On July 25, 2008, respondents filed a motion for extension of time to make a return or otherwise plead. An Order was issued on July 29, 2008, granting respondents' motion and giving them until August 18, 2008, to respond. Therefore, the respondents are not in default..

For good cause shown, no entry of default should be made nor judgment entered against the respondents. See Fed. R. Civ. P. 55.

CONCLUSION AND RECOMMENDATION

Wherefore, based upon the foregoing, the Court recommends that the petitioner's motion for default judgment be DENIED [Doc. 16].

IT IS SO RECOMMENDED.

s/Bruce H. Hendricks
United States Magistrate Judge

July 31, 2008
Greenville, South Carolina

The plaintiff's attention is directed to the important notice on the next page.

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Court Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005).

Specific written objections must be filed within ten (10) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The time calculation of this ten-day period excludes weekends and holidays and provides for an additional three (3) days for filing by mail. Fed. R. Civ. P. 6(a) & (e). Filing by mail pursuant to Fed. R. Civ. P. 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk
United States District Court
P.O. Box 10768
Greenville, South Carolina 29603

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985).